

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff	§	
	§	
v.	§	No. 3:22-CV-01682
	§	
DANIEL BARRON, JR.	§	
d/b/a ALL AROUND HVAC	§	
SERVICES,	§	
	§	
Defendant	§	

COMPLAINT

The United States of America files its Complaint against the Defendant Daniel Barron, Jr. d/b/a All Around HVAC Services.

I.

Jurisdiction and Venue

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 29 U.S.C. § 216.

2. Defendant Daniel Barron, Jr. d/b/a All Around HVAC Services is a resident of the Northern District of Texas and presently resides within this judicial district with the following last known address or principal office:

2320 North Beckley Avenue
Dallas, Texas 75208

Therefore, venue lies in this Court under 28 U.S.C. § 1391(b).

II.

Background Facts

1. Following an investigation by the U.S. Department of Labor it was determined that Defendant had failed to properly pay its employees wages due them under the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq. Defendant signed a Form WH-56 agreeing to pay its employees the back wages due. Attached as Exhibit A is a true and correct copy of the signed Form WH-56 setting out the amounts of back wages owed, which exhibit is incorporated herein.

2. Defendant failed to pay all of the back wages due and after crediting all lawful credits and offsets, Defendant now owes a balance of \$3,909.89 in unpaid back wages.

3. Pursuant to 29 U.S.C. § 216(c), Plaintiff is entitled to sue for and collect all unpaid back wages owed by Defendant, along with an additional amount equal to the unpaid back wages as liquidated damages.

4. As set forth in the attached Certificate of Indebtedness, which is attached hereto and made a part hereof as Exhibit B, interest has accrued on the assessed penalties in this Notice, as provided by 31 U.S.C. § 3717(a)-(d), and non-payment penalties and administrative costs have been added to the assessed penalties in this citation, as provided by 31 U.S.C. §§ 3711(g)(6)-(7); 3717(e); 31 C.F.R. §§ 285.12(j); 901.1(f).

5. As of May 12, 2022 Defendant is indebted to the United States in the amount of \$6,145.28 (principal, interest, non-payment penalties and administrative costs) for the overpayments as set forth in the Certificate of Indebtedness.

III.

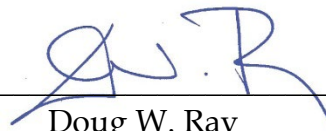
Demand

The United States respectfully requests judgment against Defendant Daniel Barron Jr. d/b/a All Around HVAC Services in the amount of \$6,145.28. The United States further requests prejudgment interest and non-payment penalties as allowed by law from May 13, 2022 to the date of judgment, post-judgment interest, its costs of suit and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

RAY & WOOD

By



Doug W. Ray
State Bar No. 16599200

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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

U.S. Department of Labor

Wage and Hour Division
Dallas District Office
1701 E. Lamar
Suite 270
Arlington, TX 76006
817-861-2150
817-861-5085



June 01, 2020

Daniel Barron
All Around HVAC Services dba All Around HVAC Services/Comfort Systems USA
2320 North Beckley Avenue
Dallas, TX 75208

Dear Mr. Barron:

This refers to the investigation of All Around HVAC Services dba All Around HVAC Services/Comfort Systems USA.

The Secretary of Labor, through Investigator Emery of the Wage and Hour Division, United States Department of Labor, conducted an investigation of the employer's business under Fair Labor Standards Act. The investigation covered the employer's operations from 12/01/2019 to 03/02/2020.

As a result of that investigation, monetary violations were found resulting in 2 due back wages in the amount of \$3,909.89.

Investigator Emery reports that All Around HVAC Services/Comfort Systems USA agreed to full future compliance with all applicable provisions of the Fair Labor Standards Act, and that All Around HVAC Services/Comfort Systems USA agreed to pay the back wages due the employees in question in the amounts shown for the periods indicated on the Summary of Unpaid Wages (copy enclosed). All Around HVAC Services/Comfort Systems USA agreed to pay directly to the employees the amounts due (less legal payroll deductions) on or before 03/13/2020 and to deliver to the Secretary's representative by 03/20/2020 preliminary payment evidence along with signed WH-58 receipt forms. This was to be followed by additional signed WH-58 receipt forms or a canceled check indicating the employees had received their backwages.

All Around HVAC Services/Comfort Systems USA has not completed the payment as agreed. By this point you should have provided evidence of payment for all employees you have paid, and provided a Net check for the total amount unpaid to employees you were unable to locate. In the absence of evidence of payment we are forced to assume that those employees have not been paid. Therefore, the entire unpaid balance has immediately become due and payable, together with such additional collection and court costs as may be incurred by the U.S. Department of Labor in pursuing collection. This defaulted balance shall be subject to the assessment of interest and penalty interest at rates determined by the U. S. Treasury as required by the Debt Collection Improvement Act of 1996 (Public Law 104-134) published by the Secretary of the Treasury in the Federal Register and other delinquent charges and administrative costs shall also be assessed.

If evidence of payment is not received within 10 Days of the date of this letter the Department intends to pursue additional collection action that may include, but is not limited to, administrative offset, referral of the account to credit reporting agencies, private collection agencies, and/or the Department of Justice.

Attached you will find a list of unpaid and/or unlocated employees. For each unpaid employee you are required to provide the following:

- Payment or proof of payment of balance due
- The Social Security Number (SSN) for each employee
- The last known address of each employee

For each unlocated employee you are required to provide the following:

- The Social Security Number (SSN) for each employee
- The last known address of each employee

In the event that any employees cannot be located, or refuse to accept the back wages, the employer agrees to deliver to the Secretary's representative a cashier's or certified check, payable to "Wage and Hour Division - Labor" to cover the total net due all such employees on or before 03/13/2020.

To ensure proper crediting of your payment your remittance should clearly reference the case number shown above and be made payable to "WAGE AND HOUR DIVISION-LABOR."

U.S. Department of Labor
Wage and Hour Division
Southwest Regional Office
Federal Building
525 S. Griffin Street, Suite 800
Dallas, TX 75202

You also have the option to pay online by ACH transfer, credit card, debit card, or digital wallet by going to <https://pay.gov/public/form/start/77705201> or by going to www.pay.gov and searching "WHD Back Wage Payment - SW Region".

If you have any questions or if you wish to discuss this matter, you may contact **Marisela Pérez** at 817-804-8033, perez.marisela@dol.gov.

Sincerely,

Jesus A. Valdez
District Director

Enclosure

Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Dallas TX District Office Dallas District Office 1701 E. Lamar Suite 270 Arlington, TX 76006 817-861-2150			Investigator: Armando Emery		Date: 03/05/2020
			Employer Fed Tax ID Number: 26-0549929		
1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
Martínez, Nestor	5831 Southmund St. Houston, TX 77033	12/22/2019 to 02/23/2020	FLSA	\$2,265.63 \$2,265.63	\$2,265.63 \$2,265.63
Rivas, Raul		02/09/2020 to 03/01/2020	FLSA	\$1,644.26 \$1,644.26	\$1,644.26 \$1,644.26

I agree to pay the listed employees the amount due shown above by <u>3/13/2020</u> Signed: <u>[Signature]</u> Date: <u>3/5/2020</u>	Employer Name and Address: All Around HVAC Services/Comfort Systems USA All Around HVAC Services 2320 North Beckley Avenue Dallas TX 75208	Subtotal:	\$3,909.89	\$3,909.89
		Total:	\$3,909.89	\$3,909.89

Form WH-56

Date: 03/05/2020 7:04:32 AM

Case ID: 1905581

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EXHIBIT A



U.S. DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

ACTING ON BEHALF OF
U.S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
CERTIFICATE OF INDEBTEDNESS

All Around HVAC Services/Comfort Systems USA
2320 North Beckley Avenue
Dallas, TX 75208

EIN: 26-0549929

TRFM13790177

I hereby certify, as part of my duties with the U.S. Department of the Treasury (Treasury), including referring matters to the U.S. Department of Justice (DOJ) for litigation, I am a custodian of records of certain files sent by the U.S. Department of Labor, Wage and Hour Division (DOL) to Treasury for collection actions. As a custodian of records for Treasury, I have care and custody of records relating to the debt owed by All Around HVAC Services/Comfort Systems USA (DEBTOR) to DOL.

The information contained in this Certificate of Indebtedness is based on documents created by an employee or contractor of DOL based on his/her knowledge at or near the time the events were recorded, including the review of the delinquency of back wage payments, or by an employee or contractor of Treasury based on his/her knowledge at or near the time the events were recorded, including the review of the delinquency of back wage payments. Treasury's regular business practice is to receive, store and rely on the documents provided by DOL, when debts are referred to Treasury for collection activities, including litigation.

Upon completion of an investigation covering the DEBTOR's operations from December 1, 2019 through March 2, 2020, DOL issued monetary violations against the DEBTOR in the amount of \$3,909.89 with an annual interest rate of 2.00% and an annual penalty rate of 6.00% for failure to pay back wages for several employees.

According to DOL historical records the debt became delinquent on September 10, 2020. DOL referred the claim to Treasury's Bureau of the Fiscal Service, Debt Management Services (DMS) to collect the delinquent debt on November 7, 2020. Further, I certify that I am familiar with Treasury's record keeping practices, including the receipt of files from DOL.

On May 9, 2022, DMS referred the claim to DOJ for litigation and collection in the amount due of \$3,909.89 with daily interest of \$0.22 and daily penalty of \$0.64. As of May 12, 2022, the DEBTOR is indebted to the United States in the amounts stated as follows:

Principal:	\$ 3,909.89
Interest (@2.00%):	\$ 169.25
Penalty (@6.00%):	\$ 496.18
Admin Fees:	\$ 1,569.96
Total:	\$ 6,145.28



U.S. DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

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The balances stated in the case listed above are current as of May 12, 2022, including any applicable interest, penalties, administrative fees, and DMS & DOJ fees (pursuant to 31 U.S.C. §§ 3717(e) and 3711(g)(6), (7); 31 C.F.R. 285.12(j) and 31 C.F.R. 901.1(f); and 28 U.S.C. § 527, note).

Pursuant to 28 U.S.C. § 1746(2), I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief based upon information provided by DOL and information contained in Treasury's records.

X 

Signed by: Bureau of the Fiscal Service
Ashleigh Edmonds
Financial Program Specialist
U.S. Department of the Treasury
Debt Management Services